



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

TJR

Docket No: 3538-99

31 May 2000

[REDACTED]

Dear [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of Title 10, United States Code, Section 1552.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 23 May 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record, and applicable statutes, regulations, and policies.

After careful and conscientious consideration of the entire record, the Board found the evidence submitted was insufficient to establish the existence of probable material error or injustice.

The Board found you enlisted in the Marine Corps on 6 December 1993 and served three years without disciplinary incident. However, on 15 January 1997 you were convicted by summary court-martial (SCM) of wrongful use of marijuana. You were sentenced to confinement for 30 days, forfeitures totalling \$600, and reduction to paygrade E-1.

On 3 February 1997 you were notified of pending administrative separation action by reason of misconduct due to drug abuse. At this time you elected to present your case before an administrative discharge board (ADB). Your commanding officer recommended that you be discharged under other than honorable conditions by reason of misconduct. On 3 April 1997 an ADB also recommended you be discharged under other than honorable conditions by reason of misconduct due to drug abuse. Subsequently, the discharge authority approved the foregoing recommendations and directed your commanding officer to issue you an other than honorable discharge. On 28 April 1997 you were so discharged.

The Board, in its review of your entire record and application considered all mitigating factors, such as your honorable service prior to your court-martial conviction and your contention that you would like your discharge upgraded. The Board also considered your contention that you feel that being labeled as a drug abuser for experimenting with marijuana is unconstitutional, unjust, and illegitimate. However, the Board found the evidence and materials submitted were not sufficient to warrant recharacterization of your discharge given your drug related misconduct. Additionally, your contention is without merit and unsupported by any evidence. Given all the circumstances of your case, the Board concluded your discharge was proper and no change is warranted. Accordingly, your application has been denied.

The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director